

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:19cr201
	.	
vs.	.	Alexandria, Virginia
	.	January 13, 2020
GEORGE AREF NADER,	.	2:00 p.m.
	.	
Defendant.	.	
	.	
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TRANSCRIPT OF PRE-INDICTMENT PLEA
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	JAY V. PRABHU, AUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314
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FOR THE DEFENDANT:	JONATHAN S. JEFFRESS, ESQ. EMILY A. VOSHELL, ESQ. KaiserDillon PLLC 1099 14th Street, N.W. 8th Floor West Washington, D.C. 20005 and JOHN N. NASSIKAS, III, ESQ. ANDREW E. TALBOT, ESQ. Arnold & Porter Kaye Scholer LLP 601 Massachusetts Avenue, N.W. Washington, D.C. 20001-3743
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OFFICIAL COURT REPORTER:	ANNELIESE J. THOMSON, RDR, CRR (703)299-8595
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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 P R O C E E D I N G S

2 (Defendant present.)

3 THE CLERK: Criminal Case 19-201, United States of
4 America v. George Aref Nader. Would counsel please note their
5 appearances for the record.

6 MR. PRABHU: Jay Prabhu for the government, Your
7 Honor. Good afternoon.

8 THE COURT: Good afternoon.

9 MR. JEFFRESS: Good afternoon, Your Honor. John
10 Jeffress and Emily Voshell from KaiserDillon on behalf of
11 Mr. Nader.

12 MR. NASSIKAS: Good afternoon, Your Honor. It's John
13 Nassikas from Arnold & Porter on behalf of George Nader. I do
14 have my colleague, Andrew Talbot, in the courtroom; and there
15 are a couple papers in front of the Court, if the Court's
16 willing to hear them, to have him admitted into the Eastern
17 District of Virginia. He's a member of the Virginia Bar. And
18 we also have a notice of appearance or appearance of counsel
19 form if possible, Your Honor.

20 I'm happy to describe his credentials, if it's
21 appropriate.

22 THE COURT: Well, I understand that Mr. Talbot
23 clerked for Judge Ellis. That's the sufficient credential,
24 but, Mr. Talbot, come on up to the lectern.

25 MR. NASSIKAS: Thank you, Your Honor.

1 THE COURT: Now, Mr. Talbot, one of the things that I
2 do with my law clerks when they want to be admitted is I like
3 to make sure that you really have read the rules and that you
4 were listening during your clerkship years, so I'm going to
5 impose on you the same thing I do on my clerks.

6 So let me ask you, from your work with Judge Ellis or
7 from your work with Mr. Nassikas, do you remember how many
8 people are needed to make up a grand jury? Were you ever
9 involved in a grand jury impanelment?

10 MR. TALBOT: I was not, no.

11 THE COURT: All right. Well, how many grand jurors
12 does it take to return an indictment? I'm not trying to
13 embarrass you.

14 MR. TALBOT: I'm sorry, I don't know that.

15 THE COURT: All right. Mr. Nassikas, how about you?

16 MR. NASSIKAS: Your Honor, I thought Mr. Talbot knew
17 the rules better than I, but normally it would be, as I recall,
18 23.

19 THE COURT: For a grand jury, that's correct.

20 MR. NASSIKAS: For a grand jury, yes.

21 THE COURT: And how many to return an indictment?

22 MR. NASSIKAS: The majority -- a majority of the
23 grand jurors.

24 THE COURT: Which is?

25 MR. NASSIKAS: Would be, I guess, 12.

1 THE COURT: Good guess. It's 12.

2 MR. NASSIKAS: It's not a guess, Your Honor. It's an
3 informed statement.

4 THE COURT: All right. And, Mr. Talbot, the last one
5 I'll ask you is can you tell the Court your understanding of
6 the Rule of 95? Judge Ellis never mentioned that to you?

7 MR. TALBOT: No.

8 THE COURT: That's all right.

9 Mr. Prabhu, do you know the Rule of 95?

10 MR. PRABHU: I actually don't, Your Honor.

11 THE COURT: Mr. Nassikas?

12 MR. NASSIKAS: No, Your Honor. You've stumped me on
13 that one.

14 THE COURT: That's the old joke around here that if a
15 lawyer was unhappy with a ruling of the court, they just got on
16 the highway and went down 95 to Richmond.

17 (Laughter.)

18 THE COURT: That was the old Rule of 95, all right.

19 Well, Mr. Talbot, I've put you through it and you
20 held up nicely. You know when you're being badgered by a
21 judge, the best thing that a good lawyer can do is smile and
22 just take it.

23 But anyway, I'm pleased to grant your motion to
24 become admitted to the court, and I'll have the clerk
25 administer the oath to you at this time.

1 (Attorney oath administered.)

2 THE COURT: All right, Mr. Talbot, congratulations.
3 If you take your paperwork down to the Clerk's Office, they'll
4 arrange for your certificate, and we look forward to seeing you
5 in court in the future.

6 MR. TALBOT: Thank you, Your Honor.

7 THE COURT: Now, Mr. Nassikas, I think we have
8 entered your appearance in this case. I mean, you're one of
9 several attorneys now representing Mr. Nader. Are you now lead
10 counsel, or what's your --

11 MR. NASSIKAS: Cocounsel with Mr. Jeffress, Your
12 Honor.

13 THE COURT: All right.

14 MR. NASSIKAS: I think the Latham lawyers are no
15 longer involved in the case.

16 THE COURT: Right.

17 MR. NASSIKAS: So it's the, it's the two firms,
18 KaiserDillon and Arnold & Porter.

19 THE COURT: All right. Now, this matter was set for
20 status, but my understanding is it's going to be a plea. Is
21 that correct?

22 MR. NASSIKAS: Yes, Your Honor.

23 THE COURT: All right, that's fine. Now, are all the
24 original plea papers signed?

25 MR. PRABHU: Yes, Your Honor.

1 THE COURT: We have them up here?

2 MR. PRABHU: Yes.

3 THE COURT: All right. Is this a waiver of
4 indictment among these papers?

5 MR. PRABHU: I believe not, Your Honor.

6 THE COURT: Well, we need a waiver of indictment.

7 MR. PRABHU: That's true.

8 THE COURT: I can do it -- I think we have a form
9 here. If not, I can do it verbally. I'll do it both ways.
10 All right.

11 MR. PRABHU: Thank you.

12 MR. JEFFRESS: Thank you.

13 THE COURT: All right. Mr. Nader, come up to the
14 lectern. The clerk is going to place you under an affirmation
15 to tell the truth.

16 GEORGE AREF NADER, DEFENDANT, AFFIRMED

17 THE COURT: All right, Mr. Nader, you have just taken
18 a promise to tell the truth in answering all of the Court's
19 questions. That means that if you should lie in answering any
20 question, the government could prosecute you for a new and
21 separate crime called perjury.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: For the record, what is your full name?

25 THE DEFENDANT: George Aref Nader.

1 THE COURT: How old are you?

2 THE DEFENDANT: Sixty.

3 THE COURT: How many years of schooling have you
4 completed?

5 THE DEFENDANT: Fifteen years, I think.

6 THE COURT: Did you graduate from high school?

7 THE DEFENDANT: Yes.

8 THE COURT: Did you graduate from college?

9 THE DEFENDANT: No, just --

10 THE COURT: But you have a couple of --

11 THE DEFENDANT: Three years, about three years.

12 THE COURT: All right. Do you have any problem
13 reading, writing, understanding, or speaking English?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Are you a United States citizen?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you presently on probation, parole,
18 or supervised release from any other criminal case?

19 THE DEFENDANT: No.

20 THE COURT: And, counsel, is that correct?

21 MR. JEFFRESS: That's right, Your Honor.

22 THE COURT: At this time, are you under the care of a
23 doctor for any physical or mental condition?

24 THE DEFENDANT: Physical, for the upper, you know,
25 but no mental.

1 THE COURT: All right. But I need for the record
2 during this proceeding what physical conditions are you being
3 treated for?

4 THE DEFENDANT: The open heart. I had an open heart
5 surgery a few months ago, so occasionally they just
6 double-check to make sure I'm in good shape.

7 THE COURT: All right. Are you currently taking any
8 medications for any physical or mental condition?

9 THE DEFENDANT: Medication related to the heart, yes.

10 THE COURT: For the heart, all right. Have you taken
11 those medicines on schedule today?

12 THE DEFENDANT: Yes.

13 THE COURT: In any respect, does either your heart
14 condition or the medications you take for it make it difficult
15 for you to focus or concentrate?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Counsel, have you had any difficulty in
18 dealing with your client or communicating with him because of
19 his heart condition or the medications that he takes?

20 MR. JEFFRESS: No, Your Honor.

21 MR. NASSIKAS: No, Your Honor.

22 THE COURT: Are you at this time under the influence
23 of any alcohol or drugs?

24 THE DEFENDANT: No.

25 THE COURT: Are you a United States citizen?

1 THE DEFENDANT: Yes.

2 THE COURT: Now, we have several documents that have
3 been filed in court today, and the first one is the waiver of
4 indictment, which you have just signed. Now, I don't know
5 whether your lawyers talked with you about this or not, so I
6 want to make sure that you understand that under the laws and
7 Constitution of the United States, you have an absolute right
8 to require that a federal prosecutor like Mr. Prabhu go before
9 a group of people called a federal grand jury with the evidence
10 the government has developed concerning your being involved in
11 possessing visual depictions of minors and transporting a minor
12 with the intent to engage in criminal sexual activity.

13 So you have a right before having to face those
14 charges to require the prosecutor to go before a group of
15 people called a federal grand jury with the evidence concerning
16 those two cases. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, a grand jury is made up of anywhere
19 from 16 to 23 people. Sixteen is the minimum quorum needed for
20 business; 23 is the maximum number. And these are ordinary
21 citizens who are brought together to consider possible federal
22 criminal cases, and what happens in the grand jury process,
23 which is a secret process, is a prosecutor goes into the room,
24 advises the grand jurors that he or she believes a person has
25 violated one or multiple federal criminal statutes, and then

1 the prosecutor presents evidence to the grand jurors supporting
2 that position.

3 Now, the evidence could be the testimony of
4 witnesses. It could be photographs, bank records, whatever
5 evidence the prosecutor feels is needed.

6 Then the prosecutor leaves the room, so just the
7 grand jurors are alone together, and if at least 12 of the
8 grand jurors are satisfied that the evidence presented
9 establishes probable cause to believe that the person has
10 committed the one or multiple crimes, then the grand jury will
11 return a document called an indictment, and that is normally
12 how a felony-level criminal case begins in federal court.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Now -- and that is considered to be a way
16 of protecting a person's rights because it exists to make sure
17 that a person is not publicly charged with serious criminal
18 activity without there being some factual basis to support the
19 charge or charges.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Now, a person can give up his right to
23 that review process by a grand jury, and that would be done by
24 signing a waiver of indictment such as the one that you have
25 signed today. When a person waives indictment, that means he's

1 giving up his right to have the grand jury consider the case,
2 and instead, he's authorizing the federal prosecutor to come to
3 court and file serious criminal charges against him using a
4 document called a criminal information, which will not have
5 been tested by a grand jury.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Now, even though you had not signed the
9 waiver before, have you and your lawyers basically discussed
10 what I've just discussed with you before you came to court
11 today? In other words, have they explained to you that, that
12 you're going to be pleading guilty to an information that would
13 not have been presented to the grand jury?

14 Have you had that kind of discussion?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you believe in any respect that
17 anybody has promised or -- and this is outside of your plea
18 agreement, so putting the plea agreement aside -- do you
19 believe that anybody has promised or suggested to you that by
20 waiving indictment, you would somehow get a lighter sentence or
21 more favorable treatment by the Court?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Has anyone put any force or pressure on
24 you to waive indictment today?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: All right. And who will be the
2 spokesperson here today for the defendant?

3 MR. NASSIKAS: Mr. Jeffress, and I will pipe up.

4 THE COURT: All right. Mr. Jeffress, do you feel
5 that in your multiple discussions with your client, because we
6 know this has been percolating for a while, that he has been
7 given sufficient advice about the waiver?

8 MR. JEFFRESS: Yes, Your Honor.

9 THE COURT: And are you satisfied the waiver has been
10 entered in a knowing and voluntary fashion?

11 MR. JEFFRESS: Yes, Your Honor.

12 THE COURT: All right. Then based on these answers,
13 I'm satisfied the defendant has entered his waiver of
14 indictment with the advice of counsel and has done so in a
15 knowing and voluntary fashion. So the waiver has been
16 accepted, and that allows the United States to file the
17 following two-count criminal information.

18 And I assume you've had a copy of that at least since
19 January 8; is that correct?

20 MR. JEFFRESS: Correct. That's correct, Your Honor.

21 THE COURT: All right. So Count 1 charges that on a
22 date between September 20, 2012, and October 1, 2012, within
23 this -- I'm sorry, within the Southern District of New York and
24 elsewhere, that the defendant, having been previously convicted
25 of an offense under Chapters 71, 109A, 110, 117 of Title 18 of

1 the U.S. Code, or the laws of any state relating to aggravated
2 sexual abuse, sexual abuse, or abusive sexual conduct involving
3 a minor, did unlawfully and knowingly possess, or knowingly
4 accessed with intent to view, one or more matters containing
5 visual depictions of minors engaging in sexually explicit
6 conduct and the production of such visual depictions involved
7 the use of a minor engaging in that sexually explicit conduct,
8 that has been mailed or has been shipped or transported using
9 any means or facility of interstate or foreign commerce or in
10 or affecting interstate commerce or foreign commerce, or which
11 was produced using materials which have been mailed or so
12 shipped or so transported, by any means, including by computer,
13 to wit: electronic files depicting minor children engaging in
14 sexually explicit conduct that had been uploaded to a file
15 sharing site on the internet; in short, possession of visual
16 depiction of minors.

17 That's the first charge in Count 1. Do you
18 understand that charge?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And to that charge, how do you want to
21 plead, guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE COURT: And Count 2 of the criminal information
24 alleges that in or about February of 2000, that you knowingly
25 transported a 14-year-old boy described as Minor Boy 1, who had

1 not attained the age of 18 years, in interstate or foreign
2 commerce, or in any commonwealth, territory, or possession of
3 the United States, with the intent that the boy engage in
4 prostitution, or in any sexual activity for which any person
5 can be charged with a criminal offense, or attempted to do so;
6 specifically, that you transported Minor Boy 1 from Europe to
7 Washington-Dulles International Airport, located in the Eastern
8 District of Virginia, by means of commercial airplane with the
9 requisite intent.

10 So in short, Count 2 charges transportation of a
11 minor with intent to engage in criminal sexual activity. And
12 how do you want to plead to that charge?

13 THE DEFENDANT: Guilty.

14 THE COURT: All right. Now, before the Court accepts
15 either of those two charges, I'm going to be asking you a
16 series of questions about your decision to plead guilty, the
17 plea agreement and the statement of facts. At any point this
18 afternoon, if you should decide you want to change your mind as
19 to either one or both of these charges, you can stop the
20 process, we will enter a not guilty plea for you, and we will
21 set the case for trial within 70 days of today's date.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Now, there's been filed in
25 court this afternoon a written plea agreement, and the plea

1 agreement itself is 13 pages long, and I see on page 13 what
2 appears to be your signature.

3 THE DEFENDANT: Yes.

4 THE COURT: So I first of all want to ask you did
5 you, in fact, sign the plea agreement?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And the date of the signature appears to
8 be December 24 of last year. Is that when you signed the plea
9 agreement?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Now, before you signed that plea
12 agreement -- am I missing something?

13 MR. JEFFRESS: October, Your Honor. That's my poor
14 handwriting.

15 THE COURT: Oh, it's October.

16 MR. JEFFRESS: Yeah, I apologize.

17 THE COURT: Even further back, all right.

18 Before you signed the plea agreement, did you have
19 enough time to read it over for yourself word for word?

20 THE DEFENDANT: Yes.

21 THE COURT: And did you have enough time to discuss
22 it thoroughly with Mr. Jeffress and, I guess, at that point
23 Latham & Watkins were still your attorneys, but did you discuss
24 it thoroughly with the attorneys you had at that time?

25 THE DEFENDANT: Yes.

1 THE COURT: All right. Did you ask your lawyers all
2 the questions that you had about the plea agreement?

3 THE DEFENDANT: Yes, I did.

4 THE COURT: And did they answer all of your questions
5 to your satisfaction?

6 THE DEFENDANT: Yes.

7 THE COURT: Now, do you understand you can at any
8 time this afternoon stop and ask either of your attorneys or
9 ask me if you should have any question about this proceeding?
10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 MR. NASSIKAS: And, Your Honor, I also have had a
13 chance to go over the plea agreement with Mr. Nader separately
14 and more recently.

15 THE COURT: All right. And so with new counsel on
16 board, you've again spent some time with Mr. Nassikas?

17 MR. NASSIKAS: Yes.

18 THE COURT: Your new lawyer? All right.

19 And did you have questions you asked him about the
20 plea agreement?

21 THE DEFENDANT: Yes. He confirmed and reaffirmed,
22 and I'm pleased, yes.

23 THE COURT: All right. Now, I want you to look at
24 page 13. I assume you have a copy of the agreement in front of
25 you.

1 THE DEFENDANT: Yes.

2 THE COURT: And in particular, the two sentences that
3 are right above where your signature appears, because I want
4 you to realize these are part of the plea agreement, they
5 go, "I have read this plea agreement and carefully reviewed
6 every part of it with my attorney." It should be "attorneys"
7 in this case, all right? "I understand this agreement and
8 voluntarily agree to it."

9 Now, are those two sentences completely true?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: By telling the Court that you yourself
12 have read the entire plea agreement and you've discussed it
13 thoroughly with your lawyers and you understand it and you
14 voluntarily agree to it, that means you will be bound by
15 everything that's written in this 13-page document even if I
16 don't go over every paragraph or page with you this afternoon.

17 Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And the reason for that result is that
20 this plea agreement is really a written contract between you
21 and portions of the United States government, and when a person
22 signs a written document or written contract after he's
23 carefully reviewed it himself and with counsel and he
24 understands it when he signs it and he signs it voluntarily,
25 then that becomes a binding legal document, and that means you

1 can't just come back to court in a couple of weeks and say:
2 Well, you know, I've thought more about it. I don't like
3 what's on page 4. I want to change it.

4 That's too late. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Now, other than this written plea
7 agreement, do you believe that you have any side deals or side
8 understandings with any prosecutor, any investigator, any
9 attorney, or anybody else concerning this case?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: And, Mr. Jeffress, is that correct, that
12 there are no side deals of any kind?

13 MR. JEFFRESS: That's correct, Your Honor.

14 THE COURT: All right. Then let's turn to the plea
15 agreement itself, page 1, paragraph 1. There it says first of
16 all that you've agreed to plead guilty to the two-count
17 criminal information; and I want to make sure you understand
18 that the first count, that is, the possession of child
19 pornography, the maximum penalty is a mandatory -- I'm sorry,
20 the penalty provisions are a mandatory minimum term of ten
21 years of imprisonment, with the possible maximum term of 20
22 years of imprisonment.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: In addition, there could be a fine of up

1 to \$250,000, full restitution, forfeiture of any assets as
2 described later on in the plea agreement. There would be an
3 automatic special assessment of \$100, and there's a mandatory
4 minimum term of supervised release of at least five years, but
5 that could be as much as a life term of supervised release.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Now, with Count 2, and that is the
9 transportation of the minor count, the maximum sentence is 15
10 years, which is increased to a maximum of 30 years for a repeat
11 sexual offender, and it's my understanding that the defendant
12 would qualify for the 30-year maximum exposure because of the
13 prior conviction.

14 Is that counsel's understanding as well?

15 MR. JEFFRESS: Yes.

16 THE COURT: And you understand that, Mr. Nader?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. In addition, as to Count 2,
19 again, there could be a fine of up to \$250,000, full
20 restitution, forfeiture of assets, a special assessment of
21 \$100, and again a mandatory minimum term of five years of
22 supervised release, with the possibility of a life term of
23 supervised release.

24 Do you understand all of the penalties you are
25 exposed to?

1 THE DEFENDANT: Yes.

2 THE COURT: Now, in the federal system, parole is not
3 available, and that means whatever term of imprisonment imposed
4 must be served. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: When the prison portion of the sentence
7 has been satisfied, then the supervised release portion goes
8 into effect. When a person is on supervised release, he's
9 under the control of a federal probation officer; and there may
10 be requirements to do certain things as well as requirements
11 not to do certain things.

12 For example, a requirement of these types of cases is
13 you'll have to register as a sex offender; and there will be
14 limitations on who you can associate with, where you can live,
15 where you can work, all sorts of things like that.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: The key fact you need to understand about
19 supervised release -- and again, I can't tell you the
20 conditions yet because I have not yet seen the pre-sentence
21 report -- but what you need to understand at this point is that
22 if you violate any condition of supervised release, you could
23 be sent back to prison for as long as the period of supervised
24 release.

25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: So that would be at least five years. Do
3 you understand that?

4 THE DEFENDANT: (Nodding head.)

5 THE COURT: Now, when it comes time for sentencing,
6 the Court is going to be looking at two sources -- actually
7 three sources of law in this case: first, the statutes of
8 conviction, because the -- Count 1 has the mandatory minimum
9 term of ten years. Then we have to look at the federal
10 sentencing guidelines, and last we have to look at the factors
11 under 3553(a) of Title 18 of the United States Code.

12 Now, in terms of the guidelines, the Court has to
13 make two factual decisions before your guidelines can be
14 calculated. First, we have to determine your criminal history.

15 Criminal histories are divided into six categories,
16 with each one getting a number. A No. I criminal history would
17 go to somebody who's never been in trouble with the law or has
18 a very minor record; and then as convictions, probation
19 violations, and other problems occur, the score would go up,
20 with a level VI going to the most serious offenders.

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: And then the Court must determine the
24 offense level. Now, every federal crime has a number given to
25 it by the Sentencing Commission; and that's called the base

1 offense number; and then depending upon the facts of the case,
2 that number can go up or down; and you and the government in
3 paragraph 5 of the plea agreement, and this is primarily on
4 page 4, have agreed to a series of factors that will affect the
5 guideline numbers.

6 I just want to make sure you're clear, number one,
7 that everything in paragraph 5 is binding on you and your
8 lawyers and on the prosecutor, but nothing in paragraph 5
9 limits the probation officer when that officer prepares the
10 pre-sentence report, and nothing in paragraph 5 limits the
11 Court's discretion when it goes to sentence you.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. But as I understand it,
15 you-all have agreed that as to the first count, the base
16 offense level would be an 18; and then you would receive a
17 two-level enhancement because the offense involved material
18 involving minors who had not yet attained the age of 12.

19 Is that your understanding?

20 THE DEFENDANT: Yes.

21 THE COURT: And then there would be another
22 four-level enhancement because the offense involved material
23 that portrays sadistic or masochistic conduct or other
24 depictions of violence against either an infant or a toddler.

25 Do you agree with that?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. And you certainly can consult
3 with counsel, but I want to make sure you understand this is
4 your day in court. If you disagree with something, you need to
5 make sure you've made your record. So is there any dispute
6 about whether some of these images depicted violence or sexual
7 abuse or exploitation of an infant or a toddler?

8 MR. JEFFRESS: Your Honor, we're not contesting that.
9 I mean, as the Court is aware, the images here were not
10 actually recovered; but based on how these things usually work
11 and the, you know, surrounding evidence, we're not contesting
12 that in this plea; and Mr. Nader understands that.

13 THE COURT: You're comfortable with that decision,
14 Mr. Nader?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. And then it says the next
17 bullet is that you would receive a two-level enhancement
18 because the offense involved the use of a computer. Do you
19 agree that that's part of the agreement?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. And that you would receive at
22 least a two-level enhancement because your offense involved at
23 least one video which would have at least 75 images. Do you
24 agree with that?

25 THE DEFENDANT: Yes.

1 THE COURT: And again, as I said, the Court doesn't
2 have to accept those enhancements; but that's something that
3 you and the government have agreed to. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. As to Count 2, you've agreed,
6 as I understand it, to the base offense level is 14 and that
7 that would be increased seven levels because the offense
8 involved a victim who had not obtained the age of 12 -- I'm
9 sorry, who had obtained the age of 12 but had not obtained the
10 age of 16; in other words, he's between 12 and 16.

11 Is that correct?

12 THE DEFENDANT: Yes.

13 THE COURT: And lastly, that you would receive a
14 two-level enhancement because the victim was otherwise in your
15 custody, care, or you were the supervisor of the defendant. Do
16 you agree with that?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Now, defendants who fully
19 cooperate with the government -- I'm sorry, the next paragraph,
20 at the bottom of page 4, the United States and the defendant
21 have agreed to jointly recommend a sentence of ten years of
22 imprisonment for charges contained in the criminal information,
23 as well as the additional relevant conduct in the statement of
24 facts, and that you've asked that these ten years be
25 concurrent. That means ten years on each count that would be

1 served at the same time.

2 Is that part of your understanding of the agreement?

3 THE DEFENDANT: Yes.

4 THE COURT: And again, do you understand that the
5 Court is not in any respect bound by that recommendation?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And so if the Court were to sentence you
8 to, say, 20 years, that doesn't violate the plea agreement; and
9 it wouldn't give you a basis to withdraw your guilty pleas. Do
10 you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. Defendants normally -- I'm
13 sorry, on the top of page 5, the other thing that the
14 government has agreed to recommend to the Court is that your
15 sentence should include an opportunity for you to voluntarily
16 leave the United States at the conclusion of any term of
17 imprisonment. Now, what that would mean then is you would
18 technically not be under direct supervised release supervision.

19 Again, do you understand the Court's not bound by
20 that recommendation; and the Court might determine, for
21 example, that you have to serve at least two years of
22 supervised release and then perhaps have leave to leave the
23 country, but that that paragraph is not binding on the Court.

24 Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: It goes on to say that if you were
2 allowed to leave the country and you returned to the United
3 States at any point during the period of supervised release,
4 you'd be required to register as a sex offender.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. And that you would have to
8 report to the Probation Office in this district within 72 hours
9 of returning to the country. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Now, as part of the -- in
12 Count 1 of this criminal information, those events all occurred
13 in the Southern District of New York. Do you understand that
14 you would have a right to have that charge heard in the
15 Southern District of New York?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. And my understanding from the
18 next paragraph is that you are waiving, which again means
19 giving up, any argument that would challenge venue in this
20 district. Is that correct?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. That means on appeal down the
23 road, you can't say: I shouldn't have been prosecuted in
24 Virginia because all the acts occurred in New York. A
25 defendant can waive, which means give up, his right to be tried

1 in the jurisdiction where the offense occurred.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you feel that anyone put any force or
5 pressure on you to waive venue in New York as to that count?

6 THE DEFENDANT: No.

7 THE COURT: All right. Now, in the -- these are not
8 numbered paragraphs, so one, two, three, four, it's the fourth
9 paragraph on page 5 provides that the United States and you
10 have not agreed on any other sentencing issues; and that --
11 and that means that you can make other arguments; and in
12 addition, the defense can make what are called -- and the
13 government can make 3553(a) arguments.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. Now, when a defendant
17 cooperates with the government and fully accepts
18 responsibility, he can have two levels reduced from the offense
19 level and in some cases a third level if the government files a
20 motion to that effect, and the government has provided here
21 that if you qualify for the two-level reduction for acceptance
22 of responsibility and the offense level is at least a 16, the
23 government will ask the Court to award you that third-level
24 reduction.

25 Is that an additional part of your understanding?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. But at the end of the day, it
3 will be the Court which will decide what your criminal history
4 should be and the offense level should be, and then those two
5 numbers are put on a one-page chart called the Sentencing
6 Guideline Table.

7 Have you seen a copy of that table with all the
8 numbers on it? It's like a matrix. It's one page, and it has
9 two columns.

10 Mr. Prabhu, is --

11 MR. NASSIKAS: We have it, Your Honor.

12 THE COURT: All right. I just want to make sure
13 you've seen it. You don't have to have seen it, but most
14 lawyers do show it to their clients.

15 Has he seen it?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Now, I want to make sure you
18 understand that, as I said before, the Court will make the
19 final decision as to the criminal history and the offense
20 level. Then those two numbers are going to be put on a chart,
21 that matrix, and the guideline range that results, if it's
22 under ten years, in other words, if the range is under 120
23 months, the Court can't use the guidelines because there's a
24 statutory minimum of ten years as to Count 1.

25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: However, if the guideline range is above
3 ten years, then the Court must consider the range but is not
4 required to sentence within it; and if the Court has good
5 reasons, it can sentence above the guideline range or below the
6 range. The only limits on the Court's authority is the Court
7 cannot sentence below the mandatory minimum barring a couple of
8 exceptions we'll get to in a minute, and it can't ever sentence
9 above the statutory maximum.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, in addition to the guidelines, the
13 Court must also look at the 3553(a) factors; and this requires
14 a full evaluation of your entire history, your work history,
15 educational background, health issues, certainly any pattern of
16 repeated conduct in this area of sexual abuse or involvement
17 with pornography involving minors.

18 We're going to look at the need for deterrence, that
19 is, to make sure you don't engage in this conduct in the
20 future, as well as the need to deter others from engaging in
21 the conduct. So there's a whole lot of factors that go into
22 the sentencing decision.

23 Now, I'm going to assume that you spent a great deal
24 of time talking with your lawyers about the possible sentence
25 you may get in this case. Have you done that? Most defendants

1 do.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. And they've given you -- I'm
4 sure they've given you estimates as to what type of a final
5 sentence you may get. Have they done that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: I want to make sure you understand that
8 no matter what your lawyers may have told you or, for that
9 matter, if Mr. Prabhu or any of the agents or anyone else has
10 said, well, you know, you're probably looking at such-and-such
11 a sentence, none of those discussions in any respect are
12 binding on the Court; and so if at the sentencing hearing you
13 receive a sentence that is different from what you might be
14 expecting or hoping for, that does not constitute a violation
15 of the plea agreement; and it will not give you a basis to
16 withdraw your guilty pleas.

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, defendants normally have the right
20 to appeal the sentence imposed on them, but if you look at
21 paragraph 6 of this plea agreement, on page 6, this explains
22 that you are by pleading guilty today giving up many of your
23 appeal rights. Specifically, the second sentence of that
24 paragraph, starting with the word "nonetheless," as a condition
25 of this plea agreement, you are knowingly waiving your right to

1 appeal both your convictions and any sentence within the
2 statutory maximum as described above.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Now, there is a few, a few
6 limitations on this. You have -- the government has agreed
7 with you that you may challenge as a possible violation of
8 18 U.S.C. 2423(a), that is, Count 3 of the indictment and
9 Count 2 of the criminal information, on the basis of your claim
10 that the admitted conduct fell outside of the statute of
11 limitations.

12 You may recall your lawyers -- prior lawyers filed a
13 motion to dismiss because of a violation of the statute of
14 limitations. We did issue an opinion that denied that motion
15 to dismiss, but it's my understanding that you may still appeal
16 that decision.

17 And, counsel, is that correct? That's still a part
18 of the plea agreement?

19 MR. JEFFRESS: That's correct.

20 MR. PRABHU: That's correct.

21 THE COURT: Yeah, all right.

22 It indicates here that the Court's determination on
23 that issue, that is, that one -- which only affects one count,
24 that just affects the second, Count 2 of the criminal
25 information, shall not be grounds for either the United States

1 or the defendant to withdraw from this plea agreement, and all
2 provisions not specifically reflecting this count shall remain
3 in full force and effect.

4 So you understand that all that's going to do is
5 affect your right to appeal that particular count?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right. On that particular ground,
8 that is, the statute of limitations ground. Is that
9 everybody's understanding?

10 MR. JEFFRESS: Yes.

11 MR. NASSIKAS: Yes, Your Honor.

12 THE COURT: All right. Now, in terms of restitution,
13 that issue is addressed in paragraph 9 of the plea agreement;
14 and there it indicates it's putting you on notice that you may
15 be required to pay the full amount of any victims' losses; and
16 you've agreed to the entry of a restitution order for the full
17 amount of the victims' losses, as those losses are further
18 developed during the sentencing hearing.

19 Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. And at this time, you
22 specifically acknowledge that the individual in the Czech
23 Republic is a victim who is entitled to restitution in an
24 amount to be determined at or before sentencing, and that you
25 have agreed that you will enter into an agreement modifying the

1 terms of this agreement to incorporate that specific amount.

2 Are you anywhere close to getting that number,
3 Mr. Prabhu?

4 MR. PRABHU: Your Honor, as the Court will recall,
5 you appointed the public defender to represent the victim; and
6 they are prepared to engage on this issue with defense.

7 THE COURT: And have they been working with you on it
8 already?

9 MR. JEFFRESS: So we, we just found out the name of
10 the lawyer today, Your Honor. We will get to work immediately
11 on contacting that person and trying to arrange -- work out a
12 mutually agreeable time.

13 THE COURT: All right, all right.

14 Now, paragraph 10 is important for everybody to be
15 absolutely clear about because that discusses the immunity from
16 further prosecution. The U.S. Attorney for the Eastern
17 District of Virginia has agreed it will not further prosecute
18 the defendant in this district for any of the activity
19 described either in the criminal information or the statement
20 of facts, except the government of the United States may still
21 prosecute for any crimes of violence or conspiracies to -- or
22 aiding and abetting a crime of violence.

23 Everybody understands that?

24 MR. JEFFRESS: Yes.

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: All right. Mr. Nader, is that part of
2 your understanding?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. Now, in the second paragraph,
5 the United States Attorney's Offices for the District of
6 Columbia and the Eastern District of New York -- so it's
7 Eastern District, not Southern District?

8 MR. PRABHU: That's correct, Your Honor.

9 THE COURT: All right. Have reviewed the plea
10 agreement, and they've agreed to be bound by its terms to
11 resolve any potential charges.

12 So again, to the extent that any of your criminal
13 conduct related to the criminal information or a statement of
14 facts occurred in those jurisdictions, you will not be
15 prosecuted by those authorities. Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. Now, there's a specific --
18 the next sentence is important. The Criminal Division of the
19 Department of Justice's Public Integrity Section is not bound
20 by the terms of this plea agreement, and this plea agreement
21 does not resolve any potential charges or conduct under
22 investigation by that section.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right.

1 MR. PRABHU: Your Honor, just for the record,
2 Mr. Nader has been charged by the Public Integrity Section in
3 the District of Columbia.

4 THE COURT: Right, I recognize that. So, I mean,
5 this -- and who knows, there could be other charges in other
6 jurisdictions. In fact, frankly, I mean, the U.S. Attorney for
7 Utah could -- if there were charges of misconduct in that
8 jurisdiction, could still prosecute you.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Now, there was a pending
12 indictment originally in this case, so Count 11 provides that
13 the indictment will be dismissed, and I assume there are
14 dismissal papers if the plea goes through?

15 MR. PRABHU: Yes, Your Honor.

16 THE COURT: All right. Paragraph 12 is the --
17 describes the forfeiture agreement. You have agreed to
18 forfeit, that means to give up, any interest you might have in
19 any assets that are related to this case, and specifically
20 right now in the plea agreement, that's been described as an
21 iPhone 7, an iPhone X, and an iPhone 6 Plus.

22 Do you agree that you have given up any interest in
23 those items?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. Paragraph 15 puts you on

1 notice as to the requirements to register as a sex offender;
2 and that would be an absolute requirement as a result of this;
3 and that's, I believe, going to be a lifetime requirement for
4 that. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. Now, have you had enough time
7 to explain everything you know about this case to your lawyers?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you feel you've told them everything
10 you know?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And have your attorneys discussed with
13 you the nature of these two charges and any ways in which you
14 could possibly defend yourself against these charges if you
15 decided to plead not guilty and go to trial?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And, counsel, did you get full discovery
18 in this case?

19 MR. JEFFRESS: Yes, Your Honor.

20 THE COURT: And, Mr. Nassikas, have you also had
21 adequate opportunity to review the discovery?

22 MR. NASSIKAS: Yes, Your Honor, the material portions
23 of it.

24 THE COURT: And was the discovery fully shared with
25 and explained to Mr. Nader, Mr. Jeffress?

1 MR. JEFFRESS: Yes.

2 THE COURT: All right. And, Mr. Nader, do you feel
3 that your lawyers kept you fully advised with their plea
4 bargaining efforts on your behalf?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. Did they talk to you about
7 what they were trying to do for you?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: All right. Are you fully satisfied with
10 the way your counsel have worked for you in this case?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And I don't want to get into the details
13 of it. Because Latham was in this case early on and recently
14 dropped out, is there any issue about the way in which they
15 represented you that you feel undermined or injured your case?
16 I want to make sure I don't have down the road some issue about
17 that.

18 MR. JEFFRESS: So, Your Honor, if I could just --

19 THE COURT: Yeah.

20 MR. JEFFRESS: I think on that issue, if the Court
21 could just add that Mr. Nader does not feel it has been cured
22 by his, subsequently through his current representation. I
23 think there were some issues related to that that is a whole
24 can of worms, but I think all of those things, to the extent
25 they existed, have now been cured through --

1 THE COURT: Are you satisfied that any problems that
2 you had with your prior counsel have been resolved by your
3 current two attorneys and their associates?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. Because, I mean, the lawyers
6 that are now representing you on this plea are Mr. Jeffress and
7 Mr. Nassikas. Are you completely satisfied with what they have
8 done for you?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And in any respect, do you feel that
11 anything they've done for you has been undercut or diminished
12 because of whatever Latham had done?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: All right. Now, do you understand you
15 still at this time have a right to change your mind and plead
16 not guilty to either one or both of these charges? Do you
17 understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And if you did decide to go to trial,
20 then the burden would be on the government to prove your guilt;
21 and at trial, you might be found guilty of one count and not
22 necessarily of the other count. So their burden would be to
23 prove you guilty, and the standard is proof beyond a reasonable
24 doubt as to each of those counts.

25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. So as to Count 1, essentially
3 what the government would have to prove is that on the dates
4 alleged, that you knowingly and intentionally, and that means
5 not by an accident or by a mistake or some other innocent
6 reason, possessed materials which the government must prove
7 beyond a reasonable doubt would have contained visual
8 depictions of minors in sexually explicit poses or conduct.
9 That's the essence of that case -- of that charge.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: And in Count 2, they'd have to prove
13 beyond a reasonable doubt again on the date that they've
14 alleged that you knowingly, which means again not by an
15 accident or mistake or other innocent reason, transported a
16 person who was under the age of 18, in fact, they've alleged a
17 14-year-old minor, and that you had a specific intent with that
18 boy that he engage in some sort of prostitution or sexual
19 activity that would constitute a criminal offense.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Now, if you pled not guilty and went to
23 trial, there are a series of rights and protections you'd have
24 at trial that essentially are given up when a person pleads
25 guilty. First, you could see all the government's witnesses

1 and evidence and test it through the questions of your lawyers.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: You could ask the Court to issue
5 subpoenas that would require the presence at the courthouse of
6 witnesses and/or physical evidence which you could then use in
7 your defense at trial. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: You could testify as a witness at trial.
10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: You could also invoke your Fifth
13 Amendment to remain silent; and you could therefore choose not
14 to say a word at trial; and if you made that decision, no
15 evidence of guilt could be drawn from your silence. Do you
16 understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: If you decided to plead not guilty, you
19 would have a choice as to how your case was tried. You could
20 either have the case tried by a judge alone, which we call a
21 bench trial, or you had previously, I believe, opted for a jury
22 trial, in which case 12 ordinary citizens would be brought
23 together to try the case, but in either type of trial, the same
24 burden would be on the government, and that is, you could not
25 be found guilty unless the government proved your guilt beyond

1 a reasonable doubt.

2 Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: You would start your trial with a
5 presumption of innocence, and there would be no obligation on
6 you to present any evidence whatsoever. In fact, your
7 attorneys wouldn't even have to argue the case because the
8 burden at all times would be on the prosecution to prove guilt.

9 Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And in the case of a jury trial, in order
12 for a jury to convict you, all 12 jurors would have to agree
13 with the decision. So if just one juror had a reasonable doubt
14 about your guilt, that jury could not convict, it would be what
15 we call a hung jury, we would have to declare a mistrial, and
16 you would have a right to a new trial with a new jury.

17 Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And, of course, you'd always have the
20 right to be represented by counsel; and if for some reason you
21 could not afford trial counsel, we would make sure that an
22 attorney was appointed for you at taxpayers' expense. Do you
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: If you continued with a not guilty plea

1 or pleas in this case, your attorneys could try to attack the
2 prosecution's case. Now, they did file the motion to dismiss
3 that one count of the indictment; and that is still an issue
4 that you can appeal; but there might have been other issues,
5 whether, for example, the way in which your cell phones were
6 searched, whether there was a legal defect in that, whether the
7 warrants were proper or not, any statements you gave, whether
8 you got proper *Miranda* warnings, whether the depictions of the
9 minors were actually of minors, because if these people were 19
10 years old, that's not an offense.

11 Again, I don't know what, if any, defenses you might
12 have to the prosecution's case; but what you need to understand
13 at this point is that by pleading guilty, other than the issues
14 we've talked about on the statute of limitations that you have
15 reserved, you're giving up any and all attacks on the
16 prosecution's case except for an attack on the jurisdiction of
17 the Court.

18 Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And lastly, if you pled not guilty to
21 either one or both of these charges and then went to trial and
22 were found guilty, you could appeal the finding of guilt to a
23 higher-level court.

24 Do you understand that based upon the nature of the
25 law as well as your plea agreement, by being found guilty today

1 based on your guilty plea, you're giving up almost all of your
2 appeal rights? Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. Other than the plea agreement
5 that we've been discussing, do you believe that anybody has
6 promised or suggested to you that by pleading guilty rather
7 than going to trial, you would get a lighter sentence or more
8 favorable treatment by the Court?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Has anyone or anything such as your
11 mental health -- your physical condition or the pending charges
12 in D.C. or anything else put any force or pressure on you to
13 plead guilty today?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: All right. Then the last document we
16 need to go over is the statement of facts. Now, the government
17 filed a motion to seal the actual statement of facts and to
18 have the Clerk's Office publicly file a redacted version. The
19 only thing that's being redacted, as I understand it, is a
20 little bit of information that could identify a potential
21 coconspirator. Other than that, nothing else has been redacted
22 from this statement of facts.

23 MR. PRABHU: That's correct, Your Honor.

24 THE COURT: I just wanted that to be on the public
25 record.

1 And I've gone ahead and I've signed that order. So
2 as we go over the statement of facts in court today, I will
3 make sure that that person's -- that no names are used, all
4 right?

5 But the first thing is I'm looking at the unredacted
6 statement of facts, and I see what appears to be your signature
7 on page 8 of that statement of facts, Mr. Nader, and again the
8 date, October 24 of 2019.

9 Did you, in fact, sign the statement of facts?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And before you signed the statement, did
12 you very carefully read over the 27 numbered paragraphs above
13 your signature?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And do you understand -- and I am
16 assuming you and your lawyers negotiated some of those
17 paragraphs. Is that a fair statement?

18 THE DEFENDANT: That's right.

19 THE COURT: And, Mr. Jeffress, I guess you were
20 involved in that, correct?

21 MR. JEFFRESS: Yes, Your Honor.

22 THE COURT: All right. Was there a fair amount of
23 back-and-forth about those 27 paragraphs?

24 MR. JEFFRESS: Yes, Your Honor.

25 THE COURT: All right. And, Mr. Nader, do you

1 understand that by signing this statement of facts, you've done
2 two things: One, you are admitting to the complete truth of
3 everything in those 27 paragraphs; and two, you are admitting
4 that if the case went to trial, the government could have
5 proven all of those facts beyond a reasonable doubt.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. So I'm not going to go
9 through all of that with you today because I've also read it in
10 chambers. I just want to make sure that you do agree that you
11 were convicted in this district back in 1991 for violations
12 related to smuggling child pornography.

13 Is that correct?

14 THE DEFENDANT: Yes.

15 THE COURT: And you pled guilty to that, and you were
16 sentenced for that; is that correct?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. And then do you agree that
19 over a series of years, you've had exchanges with at least one
20 other person concerning child pornography?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. And do you agree that --
23 yeah, I guess the reason why I was surprised that the Eastern
24 District of New York signed off on this is that paragraph 5
25 discussed the Southern District of New York. But you've got

1 the right district?

2 MR. PRABHU: That's correct. If you'd like us to
3 approach, I can explain it.

4 THE COURT: That's all right. As long as everybody
5 understands that what we went through before was accurate. All
6 right, that's fine.

7 But do you agree that in September of 2012, you
8 received some e-mails that had links to various explicit
9 pictures that included child pornography?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. And do you admit also that at
12 paragraph 11, that while you were in the Southern District of
13 New York between September 20, 2012, and October 1 of 2012, you
14 knowingly possessed or knowingly accessed with the intent to
15 view at least one video of child pornography?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. And again, this goes on to
18 talk about the Southern District of New York and that you could
19 have been prosecuted there but you've given up that venue,
20 correct?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. All right. And do you agree
23 with paragraph 12, that in October of 1999, while you were in
24 the Czech Republic, you met a -- the young man who's identified
25 as Minor Boy No. 1?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. And that you met him for the
3 purpose of commercial sex?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. And that you then invited
6 this boy to travel to the United States, and you arranged for
7 him to get a visa; is that correct?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: All right. And did you send money to
10 somebody in order to get him to come to the United States?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. And do you agree that on or
13 about March 18 of 2000, the minor boy left -- did come to
14 the -- I'm sorry, earlier than that, that he did come to the
15 United States back in -- on a Lufthansa flight, and he arrived
16 at Dulles Airport on or about, was it February of 2000, and you
17 met him? Did you meet him at the airport, or did somebody meet
18 him on your behalf?

19 THE DEFENDANT: I don't remember.

20 THE COURT: It says -- I'm looking at page 5, at the
21 very top paragraph -- Nader met Minor Boy 1 at the airport and
22 transported him to your Washington, D.C., residence.

23 Is that correct?

24 THE DEFENDANT: I think so, yes, Your Honor.

25 THE COURT: All right. And he stayed with you from,

1 what, February 6, 2000, to about March 18 of 2000, a couple of
2 weeks; is that correct?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And then he left the United States from
5 Dulles Airport; is that correct?

6 THE DEFENDANT: That's correct.

7 THE COURT: All right. And so you agree that you did
8 cause him to be transported in both interstate and foreign
9 commerce for purposes of engaging in sexual activity?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Do you understand -- again, I
12 don't have to go through all of this -- do you understand that
13 if the Court -- and I guess I should go back on this. Do you
14 agree that in April of 2018 -- no, it would be earlier than
15 that. Hold on.

16 Well, in the, in the 2018 time period, I'm just
17 looking at these various flights that you were coming back and
18 forth from the United States and overseas, you had in your
19 possession iPhones that had depictions of child pornography?
20 Do you agree with that?

21 MR. JEFFRESS: Your Honor, that's not --

22 THE COURT: Not quite accurate?

23 MR. JEFFRESS: The government submits that; but, you
24 know, these are the images that were sort of contested that
25 came back, that were on the 2018 --

1 THE COURT: But they were subject to a search
2 warrant.

3 MR. JEFFRESS: That's correct, Your Honor.

4 THE COURT: All right. So they are what they are.

5 MR. JEFFRESS: They are what they are.

6 THE COURT: All right, that's fine.

7 All right. Do you understand, Mr. Nader, that if the
8 Court accepts your guilty pleas today, there'll be no further
9 trial of the issues, and you will be found guilty?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: As to Count 1, which is that you
12 possessed visual depictions of minors engaged in sexually
13 explicit activity, how do you want to plead, guilty or not
14 guilty?

15 THE DEFENDANT: Guilty, Your Honor.

16 THE COURT: And as to Count 2, which was the
17 transportation of the minor from Czechoslovakia to the United
18 States, how do you want to plead?

19 THE DEFENDANT: Guilty, Your Honor.

20 THE COURT: All right. And, Mr. Jeffress and
21 Mr. Nader, have both of you had enough time to thoroughly go
22 over these two guilty pleas with your client?

23 MR. JEFFRESS: Yes, Your Honor.

24 MR. NASSIKAS: Yes, Your Honor.

25 THE COURT: Are you each fully satisfied that the

1 pleads accord with your understanding of the facts and law in
2 this case?

3 MR. JEFFRESS: Yes, Your Honor.

4 MR. NASSIKAS: Yes, Your Honor.

5 THE COURT: And are you each satisfied that Mr. Nader
6 has entered his pleas in a knowing and voluntary fashion?

7 MR. JEFFRESS: Yes.

8 MR. NASSIKAS: Yes.

9 THE COURT: All right. Then based upon all these
10 answers, I'm satisfied, Mr. Nader, you've entered both pleas
11 with the full advice of competent counsel, that the written
12 statement of facts plus your oral admissions today are more
13 than enough evidence upon which to find you guilty beyond a
14 reasonable doubt as to both counts; and I'm satisfied you've
15 entered your pleas in a knowing and voluntary fashion. So
16 you're found guilty of Counts 1 and 2.

17 If we have the motion to dismiss the indictment, I'll
18 enter that order now.

19 MR. JEFFRESS: Thank you, Your Honor.

20 THE COURT: I've also entered the sealing order, all
21 right?

22 All right, we need to set this case for sentencing;
23 and that's one of the reasons I asked about the time it's going
24 to take to get the information for restitution purposes is that
25 might affect the time for the sentencing hearing; but do you

1 think you can do it within the normal 70 to 80 days?

2 MR. JEFFRESS: Your Honor, we were hoping for the
3 second week of April if the Court's available. I think that
4 would give us enough time. We do plan on getting right on that
5 restitution order.

6 MR. NASSIKAS: That would be, Your Honor, the week of
7 April 6 is the Monday.

8 THE COURT: Right. April 10, April 10 is available,
9 as is the 17th, so what works for you-all?

10 MR. JEFFRESS: April 10, please, Your Honor.

11 MR. NASSIKAS: Thank you.

12 MR. PRABHU: Fine with the government.

13 THE COURT: All right, that will be at 11:00.

14 And, Mr. Nader, you are getting credit for the time
15 you're now serving against your final sentence. You will be
16 visited in your cell by a federal probation officer who will be
17 conducting the background information investigation, and so
18 your full cooperation with the officer is to your advantage.

19 Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Is there anything further on
22 this case?

23 MR. NASSIKAS: Your Honor, do you know when that
24 probation officer is likely to be surfacing with us?

25 THE COURT: You should probably go check -- you can

1 go over to the office right now and just let them know that the
2 plea has been accepted and when the sentencing hearing is, and
3 then they'll assign somebody.

4 MR. NASSIKAS: Okay.

5 THE COURT: There usually are specialized probation
6 officers who handle these child pornography cases.

7 MR. NASSIKAS: Okay.

8 THE COURT: So there'll be an experienced officer
9 doing this.

10 Anything further?

11 MR. PRABHU: Nothing from the government, Your Honor.

12 MR. NASSIKAS: Thank you, Your Honor.

13 THE COURT: Then the defendant is remanded, and we'll
14 adjourn court for the day.

15 (Which were all the proceedings
16 had at this time.)

17

18 CERTIFICATE OF THE REPORTER

19 I certify that the foregoing is a correct transcript of
20 the record of proceedings in the above-entitled matter.

21

22

23

24

25

/s/

Anneliese J. Thomson